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STATE FOR WHA/CEN GSCHIFFER & RGREENE, EB/IFD/OIA, PBROWN & NHATCHER  
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TREASURY FOR INL MDONOVAN AND GCHRISTOPOLUS, OWH/MSHWARZMAN  
STATE PASS TO USTR

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E.O. 12958: N/A  
TAGS: [EINV](#) [ECON](#) [USTR](#) [KIDE](#) [NU](#)  
SUBJECT: NICARAGUA: SECTION 527 WAIVER OBSERVATIONS

REF: MANAGUA 00626

Sensitive But Unclassified - Please Handle Accordingly

¶1. (SBU) Summary: Post recommends that the Secretary of State issue an annual waiver to Section 527 of the Foreign Relations Authorization Act of FY 1994/1995. Between August 1, 2006, and June 30, 2007, the Government of Nicaragua resolved 34 Embassy-registered claims for 18 U.S. citizens. While this number is below that of previous years, we recognize that the transition in administrations during the second half of the waiver year disrupted the normal pace of resolutions, which should resume during the 2007-2008 waiver year. In addition, we have been making progress toward establishing working relations across the spectrum of bilateral cooperation, including trade and investment under CAFTA-DR, judicial reform, ensuring professional military and police forces, and the war on drugs and terrorism. We believe that these factors justify a waiver to Section 527 this year based on U.S. national interest. We recommend retaining last year's benchmarks, but calling for more rapid progress in achieving resolutions for U.S. citizen claims. End Summary.

#### 2006-2007 Waiver Year Benchmarks

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¶2. (SBU) In her July 28, 2006, letter to then Foreign Minister Norman Caldera, the Secretary enumerated three benchmarks for granting a waiver in July 2007: 1) successful resolution of a significant number of Embassy-registered claims; 2) resolution of property claims held or controlled by the Government of Nicaragua, including the "Corporacion Nacional del Sector Publico" (i.e., CORNAP, the government's asset holding company); and 3) resolution of property claims controlled by the Nicaraguan Army. While the Government of Nicaragua made some progress on the first benchmark during this waiver year, it made no progress on the second or third. In particular, approximately 37 properties claimed by U.S. citizens continue to be under the control of either the Army or the Army Social Security Institute (IPSM). High-ranking military officials continue to occupy some residences.

#### Waiver Year Progress Spans Two Administrations

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¶3. (SBU) In equal measure, this waiver year spanned two administrations, i.e., the end of the Bolanos Administration and the beginning of the Ortega Administration. During the period between August 1, 2006, and January 9, 2006, the Administration of President Enrique Bolanos resolved 29 American citizen property claims. Of the 17 U.S. citizens compensated, two were U.S. citizens at the time of confiscation. The face value of property bonds issued to the entire group was approximately \$2,378,851.12, with a current market

value of approximately \$1,058,588.75.

¶4. (SBU) On January 10, 2007, Daniel Ortega was inaugurated president and quickly moved to install Sandinista party officials in positions of responsibility, including the Property Superintendent (Reftel) and the Attorney General. They in turn hired new staff and embarked on a legal review of all settlements accomplished in the six months prior to assuming office. The result was that the Ortega Administration made little or no progress in resolving claims through June 30, 2007.

¶5. (SBU) Beginning in March, post sought to raise the awareness of the new government on the importance of resolving claims. This resulted in the government declaring resolutions for dozens of claims for which it provided no evidence. In one interview in May, Vice President Jaime Morales Carazo incorrectly told CNN that the Ortega Administration had resolved more claims in the short time it had been in office than the Bolanos Administration had ever resolved during the course of one full year. While we were heartened to learn of the government's renewed interest and supposed effort, we informed the responsible officials that there was no proof of final resolution.

¶6. (SBU) In May, the Ambassador reminded the Attorney General of the procedures that needed to be undertaken before a claim could be considered resolved. On June 29, the Government of Nicaragua delivered to the Embassy final documents for 5 settlements awarded to a single U.S. claimant for more than 2,000 acres of premium coastal real estate in the Department of Rivas. Post considers these resolutions significant because they lend some credence to the Ortega Administration's behind the scenes quiet efforts and provide evidence that the Ortega Administration may be ready to resume a more normal pace in resolving U.S. citizen claims.

¶7. (SBU) Taken together with the 29 resolutions from the Bolanos Administration, the Ortega Administration's 5 resolutions bring the total for the waiver year to 34 claims resolved for 18 U.S. citizens, with a total face value of property bonds in the amount of \$3,664,319.94. The current market value of these claims is approximately \$1,696,580.14.

#### Property Indemnification Bonds (BPIs)

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¶8. (SBU) The Government of Nicaragua typically compensates expropriated or confiscated property of American citizens via low-interest, long-term property indemnification bonds (BPIs). While rare, the return of property, cash payments, and land swaps are not unknown. In December 2004, the Nicaraguan National Assembly authorized adding an independent Property Institute (INPRUR) to a complex mix of property resolution entities. While legislation supporting the controversial institute is still on the books, INPRUR has never become operational.

#### Selected Case Highlights

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¶9. (SBU) While we are encouraging the government to settle further claims during the month of July 2007, the cut-off date for submission is June 30, 2007. Cases listed below represent a sample of resolutions achieved between August 1, 2006, and June 30, 2007. Their full documentation confirms eligibility for Section 527 consideration for waiver year August 1, 2006, to July 31, 2007. All dollar figures have been calculated using the official exchange rate on the date of settlement.

A) Becklin/Gonzalez Family: Claimant received compensation for 108 shares of the 1979-nationalized "La Protectora" insurance company in the form of property bonds \$219,842.

B) Collado, Alma: Final resolution was accomplished via the rare recovery of an urban lot in Managua through the local courts.

C) Dubon, Oscar: Claimant received property bonds with a face value of \$52,178 for an upscale Managua residence. Note: Occupant Ivan Antonio Garcia Cortez was the subject of a 2004 Section 2225 request resulting in a 2006 visa denial.

D) Fortunato, Gloria: Claimant received property bonds with a face value of \$834,833.45 for six houses in the Department of Matagalpa.

E) Gonzalez, Amelia: Claimant received property bonds with a face value of \$630,524 for seven houses in Managua.

F) Vallejos, Francisco: Claimant agreed to a landswap worth less than his original property along with property bonds with a face value of \$61,465.51 to make up the difference.

G) Pinkes, Gyula: Claimant received property bonds with a face value of \$1,285,468.82 for approximately 2,300 acres of prime coastal property in the Department of Rivas. [Note: This case was resolved during the Ortega Administration. End note.]

#### Section 527

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¶10. (SBU) Section 527 of the Foreign Relations Authorization Act of Fiscal Years 1994 and 1995 prohibits U.S. economic assistance or support in international financial institutions to any country in which U.S. citizens have not received adequate and effective compensation for confiscated property. The prohibition can include all U.S. assistance through USAID, the Millennium Challenge Corporation (MCC), and our votes at the IMF and World Bank. Section 527 also authorizes the Secretary of State, as delegated by the President, to waive the prohibition on an annual basis if she determines that it would be in the national interest of the United States to do so.

¶11. (SBU) Section 527 was amended on December 8, 2004, to base the waiver decision only on claims registered at the Embassy before August 1, 2005. No new claims can be considered in determining waiver eligibility. A separate database lists 17 property claims from 11 U.S. claimants registered at the Embassy after August 1, 2005. [Note: In 1998, the Government of Nicaragua announced that claimants of any nationality had to file new claims before December 2000 to be considered for compensation. End note.]

#### Waiver Recommendation

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¶12. (SBU) The primary consideration in deciding to issue a waiver each July is whether it is in U.S. national interest. In the case of Nicaragua, we have been working toward establishing working relations with the Ortega Administration across the spectrum of bilateral cooperation, including trade and investment under CAFTA-DR, judicial reform, ensuring professional military and police forces, and the war on drugs and terrorism. We believe that we are making progress toward achieving our goals.

¶13. (SBU) Another consideration is the effort put forth by the Government of Nicaragua to resolve outstanding claims and the prospect of resolving more claims in future. While the break in progress surrounding the transition between administrations is lamentable, it is to a certain extent understandable. We believe that our counterparts in the Nicaraguan Government now understand the importance of making more rapid progress in resolving U.S. claims, have come to terms with their responsibilities, and are better prepared to work with us in future.

#### Suggested Points for 2007-2008 Waiver Letter

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¶14. (SBU) We recommend retaining last year's benchmarks for the 2007-2008 waiver year as follows: 1) successful resolution of a significant number of Embassy-registered claims, with particular attention to longstanding, complex cases; 2) resolution of property claims held or controlled by the GON, including CORNAP and the Police; and 3) resolution of property claims controlled by the Army. While achieving all three benchmarks in any given period is unlikely, retaining them underscores our commitment to achieving resolutions in all categories of U.S. citizen claims. In addition, we recommend adding that while the number of settlements this year was significantly below that of previous years, we understand that the transition in administrations disrupted the pace of progress during this waiver year. We hope that the pace of progress resumes in the 2007-2008 waiver year, and look forward to working closely

with the Government of Nicaragua to help make this happen.

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